

810-9-1-.02 Returns.

(1) Every financial institution, as defined in Chapter 16, Title 40, Code of Alabama 1975, and in Rule 810-9-1-.01, must make and file a return with the Department of Revenue by April 15 of each year. The return must be made on the form prescribed by the Department, complete as to information and in accordance with the instructions provided. Corporation returns must be signed under penalty of perjury by the cashier, treasurer or other authorized officer or employee. The returns of other financial institutions must be signed under penalty of perjury by the owner, managing partner or other authorized employee.

(a) Every financial institution which has income from business activity that is taxable both within and without this state shall allocate and apportion its income to this state. See Rule 810-9-1-.05 and § 40-16-4(a)(2), Code of Alabama 1975.

1. Every financial institution which allocates and apportions income under Rule 810-9-1-.05 and as required by Chapter 16 shall maintain records of property, salaries, and receipts factors by state. This information in its entirety shall be available to the Department upon request in order to verify the numerators and denominators of the apportionment factors.

(b) A financial institution which operates only within this state shall subject its total company income to taxation under Chapter 16.

(c) A copy of the federal return, including a federal consolidated return, with "spread sheet" information for subsidiaries joining in the federal return, must be attached to the Alabama Financial Institution Excise Tax return to be complete.

1. "Spread sheet" information is income and balance sheet statements for each company included in the consolidated federal return presented in columns using the federal Form 1120 format.

(2) Consolidated Alabama Financial Institution Excise Tax returns may be filed by registered bank holding companies as described in §40-16-1(1) and their subsidiaries which meet the tests described in §40-16-3(c)(1) and (2).

(a) There shall be the following requirements as to the proper filing of consolidated returns:

1. Form ETC must be properly completed and filed by April 15 along with remittance of \$6,000.00 which is clearly designated as the "consolidated filing fee." This fee is paid for the privilege of filing in consolidation which is elective with the taxpayer. No provision is made for refund of this fee and the election to file a consolidated return is irrevocable.

2. Form ET-1 must be completed for each member participating in the consolidation. Each member with business activities both within and without this state must compute its total company net income under Chapter 16 and allocate and apportion income to this state as mandated by Chapter 16 and rules adopted by the Department of Revenue. See Rules 810-9-1-.05 & 810-9-1-.01. This requirement may be met by attaching a comprehensive "spread sheet" presented in the format of Form ET-1. These documents must be attached to "the consolidated return." See subsection 3. below.

3. The form ET-1 completed for the consolidation should be clearly marked on its face "Consolidated Return." The Consolidated Return is a composite return of each members ET-1. See subsection 2. above.

4. Management fees allocated to affiliates may not exceed the cost of the parent company's operations in rendering services to its subsidiaries which are part of the Alabama consolidated Financial Institution Excise Tax return. Interest expense incurred by the parent on funds borrowed and invested in subsidiaries or otherwise will not be allowed to be included in computation of such management fees.

5. The credits provided by §40-16-8 against the tax imposed by this chapter are not allowable as credits to the parent. Neither may any excess credits of any member be transferred to another member nor may any excess credits be carried forward to future tax years.

(3) The tax imposed by Chapter 16 is due by April 15 of the state tax year.

(4) Extension of time for filing may be granted by the Department of Revenue. Application for such extension must be made on form ET-8 and be received by the Department by April 15 of the state tax year and must be properly completed. In accordance with § 40-16-5, at least one half the net tax shown to be due on the return must be remitted with the application for extension. Failure to remit at least fifty percent of the net tax due will cause the revocation of the extension and subject the return to the penalties for delinquency provided in §40-16-3. Note that the tax is due by April 15 of the state tax year and interest accrues at the rate determined under §40-1-44, Code of Alabama 1975, on any tax due and unpaid on April 15 of the state tax year.

(5) The following civil penalties are applicable and are not exclusive:

(a) Failure to timely file return, failure to timely pay, underpayment due to negligence, underpayment due to fraud, frivolous return penalty, frivolous appeal penalty. See § 40-2A-11, Code of Alabama, 1975.

(6) Section 40-16-6, Code of Alabama 1975, requires that the taxpayer report in detail the percentage of the financial institution's total business transacted in each municipality and county in Alabama. The method of determination of these percentages shall be developed based upon the nature of the taxpayer's overall operations and consistently applied on a year to year basis. For purposes of this regulation, financial institution conducts business in locations where offices are maintained. A financial institution that does not maintain an office within this state, but is subject to the tax imposed by §40-16-4, is deemed not to be located in any particular county or municipality and taxes collected from the institution revert to the State General Fund. Such institutions must indicate on the Alabama financial institution excise tax return (form ET-1) that no place of business is maintained. This information is absolutely essential to the administration of the Financial Institution Excise Tax Law. Omission of this information from the return will cause the return to be deemed incomplete and subject it to treatment as a delinquent return.

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Authority: §§ 40-16-3(e), 40-16-4 & 40-2A-7(a)(5), *Code of Alabama 1975*
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